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## The AHA's Double Standard on Academic Freedom

by **David Beito, Ralph E. Luker, and Robert K. C. Johnson**

Has the AHA turned its back on academic freedom? In January, members present at its business meeting rejected a resolution to condemn attacks on academic freedom, whether from the right or from the left. Instead, they passed a weaker resolution that selectively condemned only threats coming from the right.

We weighed into this controversy as part of a three person "left/right" coalition for academic freedom. Our chances were slim and we knew it. Only in December did we learn that the AHA business meeting would consider a resolution to oppose David Horowitz's Academic Bill of Rights (ABOR). A leftist in the 1960s, Horowitz is now a militant activist for conservative causes. He founded the Center for the Study of Popular Culture in Los Angeles and publishes *Front Page Magazine*. Many of the provisions of Horowitz's ABOR seem laudable, at least on first scrutiny. It seeks to prohibit faculty from being hired on the basis of their political or religious beliefs. It requires that faculty expose students to diverse perspectives and, according to Horowitz, prohibits raising political issues in class that are outside the course subject matter. This provision opens the door for a student to file a complaint by making a charge of "indoctrination."<sup>1</sup>

Whatever the intentions of the drafters, the ABOR has already unleashed forces that seek to stifle free open debate on campus. In Florida, for example, Representative Dennis Baxley says that his version of the ABOR would enable students to sue professors who do not teach Intelligent Design (ID). Horowitz denies that the ABOR would have this effect, but in doing so he raises an additional troubling question: if the bill does not mandate ID, he says, because it reserves special protection only for ideas within "the spectrum of significant scholarly opinion." This rationale provides little reassurance to a credible scholar who might advocate a new, and possibly controversial, approach that is not yet part of that spectrum.

The most serious danger posed by the ABOR, however, is that it could snuff out all controversial discussion in the classroom. A campus governed by the ABOR would present professors with an impossible dilemma: either play it safe or risk administrative censure by saying something that might offend an overly sensitive student.

Equally controversial are the campus speech codes. Even though support for these codes comes overwhelmingly from the academic left, the parallels between the ABOR and the speech codes are striking. These codes exist on most campuses in the United States in one form or another, and, if strictly enforced, would suppress nearly all controversial, and much noncontroversial, campus speech.

For example, Brown University prohibits "verbal behavior," whether "intentional or unintentional," that leads to "feelings of impotence, anger, or disenfranchisement." Colby College proscribes words that convey a "vague sense of danger" or threaten loss of "self-esteem." In 2004, the faculty senate of the University of Alabama proposed sweeping rules denying university funds for "any behavior which demeans or restricts an individual based on group affiliation or personal characteristics, or which promotes hate or discrimination, in any approved University program or activity." Would this language apply to Alabama fans who heckle Auburn players or students at football games? It is hard to see why it would not.<sup>3</sup>

When campus administrators enforce speech codes and related rules, conservatives and libertarians

bear the brunt of the attack. In January 2003, for example, California Polytechnic State University (Ca Poly) subjected Steve Hinkle of the College Republicans to a grueling seven-hour hearing after a student accused him of "offensive" speech. Hinkle had done nothing more than attempt to post a flier in the school's multicultural center that advertised a speech by Mason Weaver, a black conservative. Cal Poly pronounced Hinkle guilty of "disruption of a campus event." At the University of Colorado, a year prior to the Ward Churchill imbroglio, administrators issued a ban on an "affirmative action bake sale" in which the College Republicans sold cookies at "suggested" lower prices to racial minorities. Even as the AHA met in Philadelphia, the University of North Carolina at Greensboro was pursuing the charge of "violation of Respect" against two students for demonstrating outside of a small limited "free speech zone." Ironically, the students were protesting against the university's policy of designated speech zones!<sup>4</sup>

Just as troubling is the case of Hans-Hermann Hoppe, a professor of economics at the University of Nevada at Las Vegas (UNLV). In 2004, a student complained that Hoppe's assertion in lecture that homosexuals were more likely to have higher time preferences (that is, to favor current consumption over long-term savings and investment) constituted hate speech. In February 2005, UNLV Provost Raymond W. Alden III announced that he would reprimand Hoppe and suspend him without pay for a week for creating a "hostile learning environment." Alden characterized Hoppe's statements as improper because they "were not supported by peer reviewed academic literature" and were "opinions, theories without experimental/statistical support."<sup>5</sup> The fallacies of such a standard are obvious, or at least should be obvious. What professor can claim (at least with a straight face) that he or she has not violated this peer-review rule in lecture, and not just once but many times?

While academic freedom eventually triumphed in most of these cases, it was only because outside organizations, especially the Foundation for Individual Rights in Education (FIRE), spread adverse publicity or threatened lawsuits. In the meantime, the college administrators in question had displayed to the world an appalling disdain for free speech, while all too many faculty, by not speaking out, showed either failure of nerve or outright complicity in injustice.<sup>6</sup>

It is impossible to escape the conclusion that these attitudes can be traced, at least in part, to the fact that the victims of repression were often conservatives or libertarians. But the right would probably prove itself better at protecting liberty if it is ever given the same power. As long as so many continue to follow the credo of "free speech for me, but not for thee," the prospects for academic freedom are bleak.

With all this in mind, we began our campaign to sway the AHA by making a principled private appeal to the sponsors of the anti-ABOR resolution. We urged them to add a friendly amendment condemning speech codes that violate academic freedom. We expected to be rebuffed but retained some hope. Because two of us (David Beito and Ralph Luker) are members of Historians Against the War (HAW), the chief group behind the anti-ABOR resolution, it was easier (or seemed easier) for us to make the case that a consistent stand would help the antiwar movement win support from conservatives and libertarians. If HAW and AHA remained silent on speech codes, we also warned, the result would be to give David Horowitz an unintended victory by allowing him to triumphantly charge hypocrisy and selectivity.

The sponsors of HAW's resolution were not buying our arguments. They refused to compromise. Meanwhile, Horowitz began to criticize our resolution for encouraging "complete anarchy" on campus and giving aid and comfort to Ward Churchill and others on the left who try to indoctrinate. Almost everything was going according to expectation. We were smoking out critics on both the left and the right, and, to a limited extent, were making them confront uncomfortable truths. Also, FIRE, the most consistent organizational champion of academic freedom today, was highly supportive of our cause and provided valuable publicity. The three of us drafted a substitute resolution, which opposed "passage of Academic and Student Bills of Rights, the use of speech codes to restrict academic freedom, and all similar attempts to limit free and open discourse on campus." Contrary to what some of our critics later said, the substitute did not oppose all speech codes. It only condemned those that restrict academic freedom.

Just prior to the final showdown, we pushed our substitute resolution at HAW's meeting, which was also held during the AHA annual meeting. We lost overwhelmingly. The most favorable development was the failure of our opponents to defend the restriction of academic freedom through speech codes. Their favorite retorts were almost entirely practical: "this is not the right time," "speech codes are an entirely different issue," "the ABOR presents a bigger threat," "your wording is not specific enough," etc. Some claimed that we were beating a dead horse because the courts had almost always struck down speech codes. This contention is misleading. While the courts have generally ruled against the codes at public

institutions, a visit to FIRE's web site will confirm that they are a clear and ongoing threat to academic freedom.

The AHA business meeting was more of the same. While the AHA officers bent over backwards to be fair to us, more than seven out of ten of the members voted down our substitute. When it was all over, the AHA meeting unanimously approved the anti-ABOR resolution. Although we regarded that resolution weak and overly selective, we voted with our colleagues to make its passage unanimous.<sup>7</sup>

Was it all worth it? It was not a pleasant experience to be beaten at every turn, but the answer is Yes. While we have lost for the time being, we seem to be on the offensive in the arena of ideas. The failure of anyone at the convention to go on record in favor of speech codes that limit academic freedom was especially encouraging. Several of our opponents even came up to us after the meeting to promise their support for a resolution condemning the codes at AHA's next annual meeting. We have our doubts but intend to take them up on their offer.

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## Notes

1. "The Academic Bill of Rights," <http://www.studentsforacademicfreedom.org/abor.html>; David Horowitz, "In Defense of Intellectual Diversity," *Chronicle of Higher Education*, February 13, 2004, <http://chronicle.com/free/v50/i23/23b01201.htm>.
2. James Vanlandingham, "Capitol Bill Aims to Control Leftist Profs," *The Independent Florida Alligator Online*, May 23, 2005, <http://www.alligator.org/pt2/050323freedom.php>; and David Horowitz, comment on "A Time to Choose for the AHA in Philadelphia: Speech Codes and the Academic Bill of Rights," *History News Network*, December 26, 2005, <http://hnn.us/articles/19745.html>.
3. "About Speechcodes.org," *Speechcodes.org*, <http://www.speechcodes.org/about.php>; Marlin Cadde "Speech Resolution Draws Ire," *The Crimson White*, November 15, 2004; and "University of Alabama Faculty Senate 'Hate Speech' Resolution," <http://www.thefire.org/index.php/article/5043.html>.
4. Jean-Paul Renaud, "Cal Poly Settles Suit by Student," *Los Angeles Times*, May 6, 2004; "Major Victory for Free Speech at Cal Poly," FIRE Press Release, May 6, 2004, <http://www.thefire.org/index.php/article/152.html>; Katherine Crowell and Scott Heiser, "CU GOP Fights Off Administration for Affirmative Action Bake Sale," *The Colorado Daily*, February 11, 2004; "Twin Victories for Free Speech on Campus," FIRE Press Release, February 13, 2004, <http://www.thefire.org/index.php/article/15.html>; Mike S. Adams, "Colleges to Avoid, Part III," *Townhall.com*, January 17, 2006, <http://www.townhall.com/opinion/columns/mikeadams/2006/01/17/182486.html>; and University of North Carolina at Greensboro, Charge Notification Form, November 28, 2005, <http://www.thefire.org/pdfs/1ae2c6f36b92d4e340d7b3ed93354d89.pdf>.
5. David Glenn, "Professor Who Was Accused of Making Derogatory Remarks in Class Wants UNLV to Clear His Record," *The Chronicle of Higher Education*, February 14, 2005, <http://chronicle.com/free/2005/02/2005021406n.htm>; and Raymond W. Alden, III to Hans-Hermer Hoppe, February 9, 2005, <http://blog.mises.org/hoppe/>.
6. Jean-Paul Renaud, "Cal Poly Settles Suit by Student," *The Los Angeles Times*, May 2, 2004; Carol Harter to Hans-Hermann Hoppe, February 18, 2005, <http://blog.mises.org/hoppe/>; and Katherine Crowell and Scott Heiser, "CU GOP Fights Off Administration for Affirmative Action Bake Sale," *The Colorado Daily*, February 11, 2004; and Lanita Withers, "Honor Code Charges Against UNCG Dropper News-Record (Greensboro), January 18, 2006.
7. Scott Jaschik, "More Criticism of 'Academic Bill of Rights,'" *Inside Higher Ed*, January 9, 2006, <http://insidehighered.com/news/2006/01/09/resolutions>.



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